

**SECTION 4: EMPLOYEE COMPENSATION AND LEAVE POLICY****4-1. Applicability.**

- 4-1.1. This Section of the County's Personnel Regulations shall apply to all County employees and to all employees of the County's Constitutional Officers whose positions are funded, fully or partially, by the County.
- 4-1.2. In the event that a Constitutional Officer adopts policies pertaining to compensation and leave which are inconsistent with this Section, or which would result in any financial obligation above and beyond what has been specifically approved by the Board of Supervisors within the Constitutional Officer's budget for the current fiscal year, the County shall have no obligation to fund such obligation.

**4-2. Compensation Plan.****4-2.1. *Defined.***

- 4-2.1.1. The Compensation Plan for the authorized positions in the service of the County shall consist of:
- 4-2.1.1.1. A pay grade assigned by the County Administrator for each job classification; and
- 4-2.1.1.2. A salary scale approved by the Board of Supervisors as part of the annual budget.
- 4-2.2. *Establishment of Rates of Pay.*
- 4-2.2.1. The County Administrator shall fix the annual rates of pay for individual employees within a pay grade, in consultation with the applicable Department head. All annual pay rates are authorized for full-time employment for 12 months, with allowances for holidays and approved leaves of absence with pay.
- 4-2.2.2. Individuals employed in an authorized position on a full-time or part-time basis will be paid at a rate determined by the County Administrator, including full-time employees of the Sheriff's Department who hold positions partially-funded by the Compensation Board and positions that are fully-funded by the County.
- 4-2.2.2.1. The rates of pay for full-time service are based on a 40-hour workweek (2080 hours per year).
- 4-2.2.2.2. The rates of pay for part-time service shall be proportionate to the percentage of time for which employed. The equivalent of annual rates of compensation shall be based on an 8-hour day/ 40-hour week.

4-2.2.3. The Sheriff shall establish an hourly rate of pay for each individual employed within the Sheriff's department as part-time deputy. Hourly compensation per hour of service shall not exceed the hourly equivalent of the minimum annual salary paid to a full-time deputy who performs like services within the County.<sup>1</sup>

4-2.2.3.1. The Sheriff shall file a monthly report with the Board of Supervisors, on or before the 5<sup>th</sup> day of each month, showing in detail all services and hours of service rendered by part-time deputies.<sup>2</sup> This report shall be delivered to the County Administrator on a form designated by the Administrator.

#### **4-3. Amendments to the Compensation Plan.**

4-3.1. In establishing or amending the pay grade for any classification(s), the County Administrator shall ensure that the overall schedule of compensation for County officers and employees, so far as practical, provides uniform compensation for like service.<sup>3</sup>

4-3.2. From time to time the Board of Supervisors, as part of the approval of the annual budget, may adjust the approved salary scale for County officers and employees.

#### **4-4. Interpretation and Effect of the Salary Scale.**

##### **4-4.1. *Entrance Rate.***

4-4.1.1. The normal entrance rate for a newly-hired employee for any position of any class shall be the lowest or minimum rate in the scale for the class (Step 1).

4-4.1.1.1. The County Administrator may, in appropriate cases, approve an entrance rate for a newly-hired employee that is above the lowest step.

4-4.1.1.2. An entrance rate one or two steps below the minimum may be paid during a training period when an appointee is not fully qualified or when there is no other suitable, fully-qualified applicant. In this case, the employee's appointment shall be for a specific and temporary period of time (not to exceed one year), to become permanent only when the employee meets the minimum qualifications.

4-4.1.2. The County Administrator shall make the final determination regarding the appropriate rate of pay for newly-hired employees, based on the recommendation of the applicable Department head(s), the availability of funding, and the overall impact on the County's Compensation Plan.

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<sup>1</sup> Va. Code 15.2-1609.9

<sup>2</sup> 15.2-1609.9

<sup>3</sup> 15.2-452

**4-5. Promotions and Demotions.**

- 4-5.1. When promoted from one classification to a classification with a higher pay grade (“promotion”), an employee may receive a step increase equal to the difference between pay grades or the first step of the higher classification, whichever is greater.
- 4-5.2. If an employee is changed from one classification to a classification carrying a lower pay grade (“demotion”) the employee’s rate of pay will be reduced. A demotion shall be treated as the reverse of a promotion and shall follow the reverse of the “step rule” outlined in paragraph 3.4.1, above.
- 4-5.3. The County Administrator may determine a different rate of pay for a demotion in appropriate circumstances.

**4-6. Reclassification of Positions.**

- 4-6.1. When an employee’s position is reclassified to a higher pay grade, and the incumbent employee is assigned to the higher-level position, salary is treated as a promotion. No employee who has received, or is to receive, an upward salary grade adjustment during a fiscal year shall be eligible for any scale adjustment, merit pay or other generally-applicable salary increase for that same fiscal year.
- 4-6.2. When an employee’s position is reclassified to a lower pay grade, and his current salary is above the maximum for the lower grade, the employee shall be permitted to continue at his present rate of pay (except in the event of general service-wide reductions) but he shall not be entitled to the annual scale adjustment, merit pay or generally-applicable salary increases, until subsequent classification grade increases or general scale adjustments bring the employee’s salary within the approved pay grade for the classification.

**4-7. Merit Increases.**

- 4-7.1. Subject to the Board of Supervisors’ approval and appropriation of funding for merit pay increases in the annual budget, merit increases may be awarded annually at the beginning of a fiscal year (July 1 each year) based on employees’ performance during the preceding year.
  - 4-7.1.1. New employees hired (or re-employed) after April 1 will not be eligible for a merit increase for the next fiscal year.
  - 4-7.1.2. New employees hired (or re-employed) on or after January 1, but on or prior to April 1, will be eligible to receive the annual merit increase upon the successful completion of probation.

- 4-7.2. A Department Head may disapprove or delay a merit increase, if an employee's performance is not at an acceptable level, and a Department Head may also withdraw a previously approved merit increase if the required level of performance has not been maintained.
- 4-7.3. An employee will not be eligible for a merit increase:
- 4-7.3.1. If the employee did not receive an acceptable or better performance rating on his most recent evaluation; or
- 4-7.3.2. The employee's job position has been reclassified resulting in an increase of more than one step, or will be reclassified, within six months of July 1.
- 4-7.4. The County retains discretion both as to whether merit pay will be available, and in what amounts. This decision will be made each year by the Board of Supervisors and County Administrator at the time the County's annual budget is adopted.
- 4-7.5. Within budgeted funding, the County Administrator shall establish the maximum percentage of merit pay that may be awarded to an employee based on the employee's performance rating, *for example*:

Acceptable: 1.0%

Excellent: 2.0%

Outstanding: 3.0%

#### **4-8. Longevity Pay.**

- 4-8.1. In instances when an employee has reached the maximum step in the salary grade for his job classification:
- 4-8.1.1. The employee will remain eligible for any annual scale adjustment;
- 4-8.1.2. The employee will remain eligible for annual merit pay; and
- 4-8.1.3. The employee may receive up to three (3) longevity-pay increases during his incumbency in the same position, in addition to the annual scale adjustment and/or merit pay for any given year, as follows:
- 4-8.1.3.1. A longevity-pay increase is a salary increase proportionately equal to the percentage difference between steps of the salary grade assigned to the employee's job classification.
- 4-8.1.3.2. An employee shall be eligible for a longevity-pay increase once every five (5) years, after reaching the maximum step in his salary grade, if the employee has received consecutive satisfactory ratings on each of his four (4) preceding annual performance reviews.

4-8.1.3.3. Longevity pay awarded to an employee shall be added to the employee's base salary.

4-8.1.4. An employee whose salary is above the maximum pay for his classification due to a prior position reclassification to a lower pay grade shall not be eligible for a longevity increase, until subsequent classification grade increases, or general cost-of-living increases, bring the employee's salary within the approved pay grade for the classification.

#### **4-9. FLSA overtime pay and compensatory leave.**

##### **4-9.1. *FLSA Status.***

4-9.1.1. Each employee shall be classified as "exempt" or "nonexempt" from the overtime pay requirements of the Fair Labor Standards Act ("FLSA") in accordance with applicable FLSA laws and regulations.

4-9.1.2. The County will maintain records indicating positions determined to be exempt or nonexempt from FLSA overtime requirements.

4-9.1.3. The records shall be maintained in the Department of Finance, and the status of individual positions shall be indicated within the approved job description for the position and in each employee's personnel file.

##### **4-9.2. *Nonexempt employees.***

4-9.2.1. Non-exempt law enforcement officers shall have an established work period of 28 days, and shall receive overtime compensation only when the number of hours worked exceeds 171 in the applicable work period. Employees holding these law enforcement positions shall receive compensation for all hours worked up to 171—leave time may not be substituted.

4-9.2.2. All other non-exempt County employees shall receive overtime compensation only when the number of hours worked during the established 7-day work period exceeds 40 hours.

4-9.2.3. The County may provide compensatory time ("comp time") off in lieu of monetary compensation for overtime work. Comp time received by an employee in lieu of cash shall be awarded at a rate of 1.5 hours of comp time for each hour of overtime work.

4-9.2.3.1. If the County elects to provide comp time for overtime work, the County and the employee must have an agreement or understanding on this arrangement prior to the performance of the work. The agreement need not be in writing, but a record of its existence must be kept; and

4-9.2.3.2. An employee may not be credited with comp-time for overtime work if the employee has an accumulated comp-time balance in excess of:

- 4-9.2.3.2.1. For employees performing public safety activities, emergency response activities, and seasonal activities: 480 hours, and
- 4-9.2.3.2.2. For all other employees: 240 hours.
- 4-9.2.3.2.3. Once an employee has reached the above-referenced limits, he shall receive monetary compensation for any overtime work until his accumulated comp-time balance falls below the applicable limit.
- 4-9.2.4. Any employee who has accrued comp time shall be permitted to use the time within a reasonable period after making a request, if use of the comp time will not unduly disrupt the operations of the department in which he is employed.
  - 4-9.2.4.1. Comp time shall be used within one year of its accrual, or an employee shall be paid for it. At no time shall any employee be allowed to accumulate comp time in excess of the limits specified in section 3-9.2.3.2, above.
  - 4-9.2.4.2. Employees who are engaged in “public safety,” “emergency response,” or “seasonal” activities shall not be required to use accumulated comp time within 1 year of accrual, but shall be allowed to utilize such time within a reasonable time after accrual, not to exceed 2 years. If such time has not been used within 2 years of accrual, the employee shall be paid for it.
- 4-9.2.5. Department heads and Constitutional Officers are responsible for scheduling compensatory leave time so that it will be used within the applicable 1-year or 2-year period, or assuring that adequate funds are available within their budgets for payment of the time at the end of the applicable period. Each year, as part of the submission of their budget requests, each department head shall report the balance of comp time, if any, for each of his employees along with the applicable accrual date(s).
- 4-9.3. *Regular rate of pay.* For purposes of the overtime pay requirements of the FLSA, an employee’s “regular rate of pay” shall be calculated by the Finance Director.
- 4-9.4. *Hours worked.* Only hours actually worked by a nonexempt employee on the job during the workweek shall be counted as hours worked for purposes of determining whether overtime pay is required. Paid or unpaid time off, during which an employee is absent from the service of the County (including, without limitation: sick, annual, compensatory, civil, personal and military leave, holidays, leaves of absence, lunch periods, inclement weather days, etc.) shall not be counted as “hours worked” for purposes of determining whether the maximum allowable number of hours has been exceeded in any work period.
- 4-9.5. *Hours worked on holidays.* Nonexempt employees who work on a holiday, if they do not receive another day off for the holiday, will receive full pay for the day or

hours worked, but will not receive overtime pay unless hours actually worked in the applicable work period exceeds 40 (or, for law enforcement officers, unless the hours worked in the applicable 28-day work period exceed 171).

- 4-9.6. *Charging leave accounts.* When an employee is absent while on paid leave status, the hours of such leave shall always be charged first to any balance of accumulated comp time. Thereafter, leave time shall be charged to accumulated balances in the following order of priority:

4-9.6.1. Accrued holiday leave

4-9.6.2. Accrued annual leave

#### **4-10. Exempt employees.**

- 4-10.1. Generally, an exempt employee is one who has been hired to perform specific executive, administrative or professional duties, without regard to the number of hours required to complete those duties in a given workweek. Exempt employees shall not accrue compensatory time nor will they earn additional compensation for hours worked in excess of the regularly scheduled hours in a work week. This does not, however, preclude Department heads from using their discretion and allowing exempt employees some flexibility from their normal daily work schedule, in recognition of time worked beyond normal work schedules.

- 4-10.2. An exempt employee shall receive his regular pay for every work week in which any services have been performed.

#### **4-11. FLSA-docking of pay and disciplinary suspensions.**

- 4-11.1. *Docking of pay—exempt employees.* Under the FLSA employees who are exempt from overtime pay requirements may not be docked in pay for periods of absence from work of less than one full workweek, except:

4-11.1.1. When the dock occurs during the first or last week of employment;

4-11.1.2. When accrued sick or annual leave has been exhausted;

4-11.1.3. When the employee chooses to be docked rather than use leave;

4-11.1.4. Sick or annual leave has been requested but denied; or

4-11.1.5. When the dock constitutes a disciplinary suspension for an infraction of a safety rule of major significance.

- 4-11.2. *Disciplinary suspensions--exempt employees.* All disciplinary suspensions of exempt employees, except as provided in paragraph 3-10.1.1, above, must be for a full workweek.

- 4-11.3. *Non-exempt employees.* Non-exempt employees may be docked in pay for actual periods of absence from work or as a form of disciplinary action (in increments of at least one hour).



**4-12. Rates of Pay for Temporary and Part-time Employees.**

- 4-12.1. *Hourly rate*. Persons employed on a part-time or temporary basis, and persons employed for a specific period of time or for a specific task, will be paid at an hourly rate approved by the County Administrator.
- 4-12.2. *Duration of Part-time Employment*. Persons may be hired in an hourly status at 35 hours per week or less, for an extended period of time.

**4-13. Pay for Serving in “Acting” Capacity.**

- 4-13.1. *Eligibility*. Whenever an employee is required by his supervisor to work in the capacity of a higher-level position for a period of time exceeding one full pay period, that employee may be paid additionally for assuming those additional duties. The County Administrator must approve the assignment and the rate of pay in advance of the assumption of duties by the employee.
- 4-13.2. *Commencement*. Receipt of acting pay shall start at the beginning of the second full pay period following the assumption of duties.
- 4-13.3. *Limited Period*. Pay for serving in an acting capacity shall not continue for more than 6 pay periods.

**4-14. “On Call” Pay.**

- 4-14.1. “On Call” pay is compensation for those County employees who are regularly required to be available to handle urgent situations occurring outside of standard working hours. With the approval of the County Administrator, on-call pay is available only to full-time salaried employees who are nonexempt from FLSA overtime requirements.
- 4-14.2. When working conditions warrant, specific individuals may be scheduled to be “on call”. “On call” assignments should be scheduled on a rotation basis, normally consisting of 7 consecutive days per assignment. “On call” assignments will only be utilized for employees whose jobs do not ordinarily involve shift work, but whose job duties may require a response to after-hours emergencies. “On-call” status is not to be confused with “call-back” status—the latter simply being an occasion where an on-duty employee is asked to stay beyond his normal shift or an off-duty employee is called back to work.
- 4-14.3. “On call” will be considered to be a period of time when an employee is not required to remain at his work station and is free to engage in his own pursuits, subject only to the understanding that (i) he must leave word at his home or with his supervisor as to how he may be reached, and (ii) he must be capable of reporting to work promptly if needed, as outlined by his department head.



- 4-14.3.1. Employees shall be considered to be “on call” only when so designated in writing by his immediate supervisor, a copy of which shall be maintained in the employee’s personnel file.
- 4-14.4. An “On Call” employee shall be compensated for 1 hour (at straight-time) of every 6 hours spent in “on-call” status, or pay for time actually called out, whichever is greater, for each 7-day “on call” assignment.
  - 4-14.4.1. When an employee is called back to work after hours, credit will be received for the actual time worked, portal-to-portal, or 1 hour per call-out, whichever is greater.
  - 4-14.4.2. An employee shall never be paid more for “on call” than actual time worked when called, unless the actual time is less than 1 hour per call-out or less than 9 hours per 7-day period.
  - 4-14.4.3. Once an employee has been called back to work, any additional calls received before the employee returns home shall be treated as one call-out and the time spent on subsequent calls shall be added to the time spent on the original call.
- 4-14.5. Should any state or federal regulations differ from the foregoing policy, then the applicable state or federal regulations will govern the departments required to follow such policies.

**4-15. Work and Pay Periods.****4-15.1. *FLSA Work periods.***

- 4-15.1.1. The standard work period for County employees is a seven-day period, beginning Monday and ending the following Sunday (a/k/a “workweek”).
- 4-15.1.2. The standard work period for law enforcement officers shall be a period of 28 days, beginning January 1 each calendar year.

**4-15.2. *Pay periods.***

- 4-15.2.1. Each calendar month is considered one pay period (“pay period”).
- 4-15.2.2. Any change in an employee’s pay or status shall be made effective at the beginning of a pay period. Except in extraordinary circumstances, newly hired employees shall be scheduled to commence performance of their duties on the 1<sup>st</sup> day of a pay period.

**4-16. Payday.**

- 4-16.1. Payday is normally the last working day of every calendar month, unless otherwise established by the Director of Finance.

4-16.2. The Finance Director shall establish the date(s) on which time sheets must be submitted for payroll processing. Hours worked, but not recorded in time for payroll processing, may be recorded in the next pay period.

#### **4-17. Personnel Transactions and Payroll Procedures.**

##### **4-17.1. *Time Reporting.***

4-17.1.1. Each Department head is responsible for ensuring that accurate information is submitted for each employee through the time reporting process. All time reporting sheets must be signed by the Department head (or another authorized person) and the employee who is the subject of the time sheet.

4-17.1.2. Errors and omissions of time worked, or leave used, may be corrected through time reporting for the next pay period.

##### **4-17.2. *Data submission.***

4-17.2.1. Any information affecting an employee's pay or personal information must be submitted to the Director of Finance as soon as it is known. Such changes include performance evaluations, pay changes, tax status changes, address changes, name changes, etc.

##### **4-17.3. *Attendance Records.***

4-17.3.1. All Department heads shall keep documentation as to their employees' time, attendance and leave usage.

4-17.3.2. Data submitted on an employee's time reporting sheet must agree with the documentation of time, attendance and leave usage maintained by the Department head.

##### **4-17.4. *Direct Deposit.***

4-17.4.1. Electronic direct deposit is mandatory, and a condition of employment, for all County salaried and wage employees.

4-17.4.2. An employee may be exempted from direct-deposit participation only if he does not meet the requirements to obtain a bank or credit union account, or if his established financial institution does not accept direct-deposit transactions. In either situation, a statement to this effect from a financial institution must accompany the employee's request for an exemption.

4-17.4.3. The County reserves the right to cancel a direct deposit in situations where an employee in leave without pay status for more than 5 days in a pay period.

4-17.4.4. The Finance Director shall be responsible for administering the Direct Deposit program.

4-17.5. *Payroll Deductions:*

4-17.5.1. The Director of Finance is authorized to make established deductions from an employee's gross pay:

4-17.5.1.1. At any time, to cover federal and state income taxes, contributions for retirement systems, employee group hospitalization and surgical insurance premiums, and other items required by law. Other deductions may be made if authorized by these County personnel regulations or by a prior written agreement of an employee. No other deductions may be made except with the advance written approval of the County Administrator.

4-17.5.1.2. Upon an employee's separation from employment, from the employee's final paycheck, deductions shall be made for any amount owed to the County in payment for unearned leave, group insurance, unreturned equipment, repayment of time borrowed from the Extended Leave Pool, or other established indebtedness to the County. No final paycheck shall be issued to an employee until the extent of any indebtedness to the County has been determined.

4-17.6. *Payment for certain leave on separation from employment.*

4-17.6.1. *Comp Time, accumulated*--An employee who has accrued comp time shall, upon separation from employment, be paid for the unused comp time, at a rate not less than:

4-17.6.1.1.1. The employee's average regular rate during the last 3 years of employment, or

4-17.6.1.1.2. The final regular rate of the employee as of his last day of employment, whichever is greater.

4-17.6.2. *Annual Leave, accumulated*— an employee who has an accrued annual leave balance shall, upon separation from employment, be paid for the unused leave time, up to a maximum of 240 hours.<sup>4</sup>

4-17.6.3. *Holiday Leave, accumulated*—when an employee who is eligible to accumulate holiday leave time becomes separated from employment, the employee will be paid for all of that unused leave time.

4-17.6.4. Upon separation from employment, an employee shall be paid in one lump sum for the balance of unused comp-time, annual and holiday leave, unless the employee and the County agree otherwise in writing.

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<sup>4</sup> 15.2-1605

**4-18. Employee Benefits.**

4-18.1. The County offers a comprehensive benefits package to full-time employees in authorized positions. Generally hourly, temporary, seasonal, part-time and certain provisional employees are not eligible for benefits. Specific plan information is available through the Department of finance.

4-18.1.1. *Retirement.* A defined benefit retirement program administered by the Virginia Retirement System is available to employees of Madison County.

4-18.1.2. *Group Health Insurance.* The County offers group health insurance coverage to all full-time County employees.

4-18.1.2.1. Each year, the Board of Supervisors, as part of its annual budget, will determine what, if any, portion of the group health insurance premium will be contributed by the County.

4-18.1.2.2. The Finance Director shall establish enrollment-periods, eligibility dates for individual employees, based on the currently-applicable insurance contract.

**4-19. Workers' Compensation.**

4-19.1. *Covered employees.* All County employees are covered under the provisions of the Virginia Workers' Compensation Act, for accidental injuries or occupational diseases that arise out of and in the course of County employment.

4-19.2. *Administration.*

4-19.2.1. The Director of Finance shall administer the Workers' Compensation program for the County.

4-19.2.1.1. The Finance Director shall establish procedures for the reporting of injuries that occur in the workplace, and may prescribe forms for use by department heads and employees to report an accident or injury.

4-19.2.2. The Workers' Compensation program is managed by Risk Management, a division of the Department of General Services of the Commonwealth of Virginia

**4-20. Leaves of Absence.**

4-20.1. *Use of leave time.*

4-20.1.1. Leaves of absence shall not be granted until sufficient leave is earned. Leave to be subsequently earned may not be anticipated and used.

- 4-20.1.2. Charges for authorized absences of compensatory, holiday, and annual leave will be made on an actual usage basis and shall be charged on an hour-for-hour basis.
- 4-20.1.3. Requests for leave shall be made and must be approved at least 2 working days in advance by a department head; however, where the need for or date of an absence cannot be predicted and where conditions warrant, the requested leave may be treated by a department head as having been authorized in advance.
- 4-20.1.4. Leaves of absence may be granted by department heads, unless otherwise specified in this section. Leave shall be granted at the times requested by an employee, subject to the operational needs of his department. In a department where it is impractical to grant leave to multiple employees at the same time, the department head shall arrange leave schedules in such a manner that will ensure that each employee will be afforded the opportunity for leave in an equitable manner.
- 4-20.1.5. Retention of a position for an employee absent for extended periods of time is not assured, except under certain provisions of the Family and Medical Leave Act (FMLA), the Uniformed Services Employment and Reemployment Rights Act (USERRA) or other applicable federal or state law. Each case will be decided on its own merits according to the personnel needs of the County and the circumstances of the employee.

4-20.2. *Kinds of leaves of absence:*

- Annual leave
- Bereavement leave
- Civil leave
- Compensatory leave
- Holiday Leave
- Injury leave (Workers' Compensation)
- Leave without pay
- Military leave
- Extended leave pool
- Family and Medical Leave (FMLA)

4-20.3. *Annual leave.*

- 4-20.3.1. Full-time employees in authorized positions are eligible to accrue annual leave, at the following rates:

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| 4-20.3.1.1. Through completion of 5 years of service:                       | 12 hours per month |
| 4-20.3.1.2. 6 <sup>th</sup> year through completion of 15 years of service: | 16 hours per month |
| 4-20.3.1.3. Over 15 years of service:                                       | 20 hours per month |

- 4-20.3.2. When the County is attempting to fill a position that is deemed critical to the County's mission and ongoing operations, and if finding that position difficult to fill, the County may provide up to 30 days (240 hours) of leave in addition to the normal accrual, or may advance up to 30 days (240) hours of leave to a new employee as an incentive to accept employment in that position.
- 4-20.3.3. In order to accumulate annual leave, an eligible employee must be in a paid status for at least 7/8 of their standard hours in a pay period. For example, an employee who has a standard work period of 40 hours per week (160 hours per month) must be in a paid status for 141 or more hours in a pay period.
- 4-20.3.4. No employee shall be credited with annual leave for any overtime hours or compensatory hours worked, or while on a dock or leave without pay status.
- 4-20.3.5. Annual leave may be used as vacation, as time needed to recover from illness or injury, or for any other personal reason(s), subject to approval in advance by a department head and subject also to the operational needs of the employee's department.
- 4-20.3.6. Annual leave accruals will be provided on a pay period basis.
- 4-20.3.7. Annual leave shall be subject to a maximum accrual of 640 hours. For annual leave, employees whose balances exceed the maximum leave accrual amount will have their balance reduced to the appropriate maximum at the end of June annually.
- 4-20.3.8. Upon separation from employment, an employee shall be entitled to payment for unused credited annual leave, up to a maximum of 240 hours.
- 4-20.4. *Bereavement leave.*
- 4-20.4.1. An employee may be granted up to 24 hours of bereavement leave for the death of an immediate family member.
- 4-20.4.2. Bereavement leave must be taken immediately prior to or immediately subsequent to the day of burial service (or equivalent) including the day of such service.
- 4-20.4.3. Bereavement leave may be supplemented with annual leave with the approval of an employee's supervisor.
- 4-20.5. *Civil leave.*
- 4-20.5.1. An employee shall be granted civil leave with full pay for any absence necessary for serving on a jury, for being summoned or subpoenaed to appear in any court of law or equity, or for taking required tests for fitness (including

required physical exams, recruitment interviews, tests for County-required certifications, and tests associated with promotions, demotions or transfers within the County.

4-20.5.2. Any employee who is a member of the Madison County Rescue Squad or the Madison County Volunteer Fire Department shall be allowed civil leave with pay for any absence necessary for responding to a call during the employee's scheduled work hours. This leave shall not apply to employees within the County Sheriff's Office or in the County's E911 or EMS Departments.

4-20.5.3. An employee will be allowed civil leave with pay for an absence necessary to fulfill responsibilities to the Department of Homeland Security in connection with responding to a natural disaster or other emergency, consistent with the County's operational needs and with the requirements of federal law or regulations pertaining to such service.

4-20.5.4. An employee shall give reasonable notice to his supervisor of the date(s) and time(s) of civil leave needed.

4-20.6. *Compensatory leave.*

4-20.6.1. See section 4-9, above.

4-20.7. *Holiday leave.*

4-20.7.1. Most employees are granted leave with pay on specific days designated as holidays. The County shall follow the schedule of holidays established by the Commonwealth of Virginia, unless otherwise directed by vote of the Board of Supervisors.

4-20.7.2. The nature of the work performed by certain employees is such that those employees cannot all be granted leave on the designated holiday. Those employees may receive credit for time worked on the day of the designated holiday and may accumulate a balance of holiday leave during the course of a fiscal year (July 1 of each year through June 30 of the following year). Full-time employees in public safety positions (law enforcement officers, animal control officers, emergency medical service personnel, and dispatchers) and other employees designated by a department head with the approval of the County Administrator will be eligible to receive straight-time credit for holiday time to be used on a subsequent date.

4-20.7.3. Any accumulated holiday leave balances must be used on or before June 30 each year or it shall be lost. On July 1 of each year, every employee's holiday leave balance will be reset to "0".



**4-20.8. *Injury Leave (Workers' Compensation).***

4-20.8.1. Workers' compensation leave is leave occasioned by an on-the-job injury or occupational disease that arises out of and in the course of employment. All such leave must be coordinated with the requirements of FMLA.

4-20.8.2. Until a workers' compensation claim is approved by the County's risk manager, the employee's absence should be recorded as "injury leave." Once approval is obtained the hours previously charged as injury leave shall be transferred to workers' compensation leave.

4-20.8.3. If a claim is not approved and therefore is not compensable under Workers' Compensation, the employee will be required to pay back monies received from the County while on injury leave. Where the employee has appropriate leave balances, an adjustment may be submitted to cover the time charged to injury leave. Should limited or no leave balances be available, arrangements shall be made by the employee with the Director of Finance for repayment of the money.

**4-20.9. *Leave Without Pay.***

4-20.9.1. An employee shall be in leave-without-pay status during hours in which the employee does not work and is in a non-paid status. Any such leave must be used in connection with the docking of pay through time reporting. The Finance Department shall be notified by a department head of all occasions an employee is in a non-paid status in excess of 5 workdays.

4-20.9.1.1. For absences from duty, department heads may authorize leave without pay. Such leave is not guaranteed.

4-20.9.1.2. The maximum duration of a period of leave without pay shall be determined by a department head, up to a period of 30 days. The County Administrator must concur with any grant of leave without pay in excess of 30 days.

4-20.9.2. The leave accrual date of any employee returning from leave without pay status shall be adjusted based on the number of days absent.

4-20.9.3. No annual or holiday leave shall be accrued by an employee who is in a leave-without-pay status. Health care and other benefits may be continued during a period of leave without pay, if the employee pays the applicable premiums. (When the employee is on approved FMLA leave without pay, the employee is only responsible for the employee's share of the health insurance). No other benefits shall accrue during a period of leave without pay.

4-20.9.4. An employee who has been placed on leave without pay based on a criminal investigation will have annual and holiday leave balances restored in full if the employee is subsequently reinstated.

- 4-20.9.5. Employees on leave without pay will retain their original evaluation date. Upon return to employment, they will reenter the position in the same pay grade and step as when they were placed on leave without pay.
- 4-20.9.6. Except under certain provisions of FMLA or USERRA, when an employee is on approved leave without pay status, retention of a position for the employee cannot be guaranteed. If the employee desires to return, the County will attempt to locate a comparable position to that held by the employee as of the date of leave approval (and for which the employee meets all qualifications). Return to County employment following a leave of absence without pay shall be treated as a reinstatement.
- 4-20.9.7. All disciplinary suspensions are instances of leave without pay, and are subject to the rules and requirements of this section.
- 4-20.10. *Military leave.*
- 4-20.10.1. Members of the organized reserve forces of any of the Armed Services of the United States, National Guard, or Naval Militia shall be provided a leave of absence with pay for federally funded military duty, to include training duty, not to exceed 15 workdays (120 hours) per federal fiscal year, without loss of seniority, accrued leave or efficiency rating.<sup>5</sup> An employee must be in a paid status to be eligible for paid military leave.
- 4-20.10.2. An employee who receives orders to report for active duty in any of the Armed Forces of the United States shall be placed on military leave without pay after the 15-day period referenced above. The employee shall make a written request for a military leave of absence without pay and shall submit to his department head copies of his orders, once they are available, indicating his active duty status. The department head shall forward the employee's request and orders to the Director of Finance.
- 4-20.10.2.1. Once a period of military leave without pay is commenced, upon conclusion of an employee's period of military service the employee's right to reemployment shall be governed by the provisions of the Uniformed Services employment and Reemployment Rights Act (USERRA).
- 4-20.10.2.1.1. Employees on unpaid military leave, prior to reinstatement, will be required to submit a request for reemployment.
- 4-20.10.2.1.2. The time limits for requesting reemployment differ, depending on the length of military service. At the time he is placed on military leave without pay, an employee shall be provided information regarding the procedure for exercising his reemployment rights.

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<sup>5</sup> Va. Code 44-93

4-20.10.2.1.3. During military leave without pay status, the employee may elect to continue his existing employer-based health plan coverage for himself and his dependents, for up to 24 months, at his expense. If an employee chooses not to continue coverage during military service, he has the right to be reinstated in the health plan upon reemployment, generally without any waiting periods or exclusions (except for service-connected illnesses or injuries).

4-20.11. *Family and Medical Leave (FMLA)*.

4-20.11.1. Under the federal Family and Medical Leave Act of 1993 ("FLMA") eligible employees are entitled to a total of up to 12 workweeks of unpaid, job-protected leave during any 12-month period, for the following purposes:

4-20.11.1.1. The birth of a child of the employee, and the care of such child, or the placement of a child with an employee for adoption or foster care. In either situation, FMLA leave must be taken within 12 months of the placement.

4-20.11.1.2. The care of an immediate family member (spouse, child or parent) of the employee who has a serious health condition.

4-20.11.1.3. A serious health condition of the employee, which renders the employee unable to perform the essential functions of his job.

4-20.11.2. The application of the requirements of FMLA to the circumstances of an employee shall be governed by federal law and regulations.

4-20.11.2.1. An employee is eligible for FMLA leave, if:

4-20.11.2.1.1. The employee has been employed by the County for at least 12 months, and

4-20.11.2.1.2. The employee has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave.

4-20.11.2.2. The County hereby designates the following method for determining the "12-month period" in which the 12-weeks' leave entitlement occurs: a "rolling 12-month period measured backward from the date an employee uses any FMLA leave.

4-20.11.2.3. Whether or not the condition of an employee or his immediate family member constitutes a "*serious health condition*" for FMLA purposes will be determined on a case-by-case basis according to FMLA law and regulations. However, as an illustration, the following types of procedures ordinarily do not qualify as a serious health condition under FMLA, unless inpatient hospital care is required or complications develop:

- 4-20.11.2.3.1. Cosmetic surgery;
- 4-20.11.2.3.2. Common cold, flu, ear aches, upset stomach, routine dental problems, etc.
- 4-20.11.2.3.3. Substance abuse may, under certain circumstances, constitute a serious health condition. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.
- 4-20.11.3. FMLA leave shall run concurrently with paid leave used for qualifying FMLA purposes. Accumulated comp time, annual leave, holiday leave and other paid leave balances shall be charged during a period of FMLA leave, until depleted. When an employee exhausts available paid leave, then the balance of the 12-week period shall be taken as unpaid leave.
- 4-20.11.4. When a husband and wife are both employed by the County, they shall be limited to a combined total of 12 weeks leave for the birth, adoption or foster care placement of a child, and for the care of an immediate family member who has a serious health condition.
- 4-20.11.5. Requests for FMLA leave shall be submitted by an employee to his department head, who shall immediately notify the County's Finance Director. An employee must provide at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as possible.
- 4-20.11.6. An absence may be designated by the County as FMLA leave as follows:
  - 4-20.11.6.1. At the request of an eligible employee, or
  - 4-20.11.6.2. At the County's own determination that an absence due to illness, injury or family reasons, whether paid or unpaid, qualifies as FMLA leave.
  - 4-20.11.6.3. The County's designation will be based solely on information received from the employee or the employee's spokesperson (e.g., a spouse or family member), except in circumstances where FMLA authorizes the County to request medical information. In any circumstances where the County does not have sufficient information about an employee's use of paid leave, the County shall inquire further of the employee or his spokesperson to ascertain whether the use of paid leave is potentially FMLA-qualifying.

- 4-20.11.6.4. An employee giving notice of the need for unpaid FMLA leave must explain the reasons for the needed leave so as to allow the employer to determine that the leave qualifies under the Act. Upon request, an employee using accrued paid leave shall explain the reason for the use of such leave.
- 4-20.11.6.5. Upon receipt of notice of a request by an employee to utilize FMLA leave, or upon obtaining knowledge that an absence is being taken for a FMLA qualifying reason, the Finance Director shall determine the employee's eligibility as soon as practical (absent extenuating circumstances, within 2 business days) and shall designate the leave as FMLA leave, with notice to the employee.
- 4-20.11.6.6. Where the employee does not give notice of the need for leave more than two business days prior to commencing leave, the employee will be deemed to be eligible if the employer fails to advise the employee that the employee is not eligible within two business days of receiving the employee's notice.
- 4-20.11.7. Group health plan benefits will be maintained for an employee during a period of FMLA leave, on the same basis as coverage would have been provided continuously employed during the FMLA leave period. In the event that some or all of the 12-week FMLA period is taken as unpaid leave, then the employee shall be responsible for payment of the premium the same as any other employee on unpaid leave status.
- 4-20.11.8. An employee who is receiving payments as a result of a workers' compensation injury must make arrangements with the County for payment of group health benefits when simultaneously taking unpaid FMLA leave.
- 4-20.12. *Extended leave pool.*
- 4-20.12.1. The County will maintain an Extended Leave Pool. An employee may request to borrow paid leave against the County's Extended Leave Pool if all applicable leave has been exhausted.
- 4-20.12.2. Eligible employees may take a maximum of 45 working days from the Bank in any rolling year (i.e., a 365-day period beginning with the first day of Leave Pool usage). An employee may request to borrow leave from the Pool if at least one of the following circumstances applies:
- 4-20.12.2.1. An employee incurs a non-service connected injury or illness that meets the FMLA definition of a serious health condition,
- 4-20.12.2.2. An employee incurs a service-related injury or illness which has been determined not to be compensable under the Workers' Compensation Act, and such injury or illness meets the FMLA definition of a serious health condition, or

- 4-20.12.2.3. The employee or an immediate family member is faced with a severe or catastrophic personal or medical situation, whether or not such situation would meet the FMLA definition of a serious health condition.
- 4-20.12.3. Leave may be granted from the Pool, if the following criteria are met:
- 4-20.12.3.1. The employee must have been away from the job due to eligible circumstances for at least 15 consecutive work days, and all of the employee's accumulated leave balances must have been exhausted.
- 4-20.12.3.2. A written request to borrow leave from the Pool must be submitted by an employee or his representative to his department head.
- 4-20.12.3.2.1. A health care provider's certificate must be presented to the employee's Department head, stating the earliest approximate date of the employee's ability return to work and resume performance of his regular duties.
- 4-20.12.3.2.2. If the leave requested is due to a severe or catastrophic medical situation that is not the employee's illness, the employee's request must be accompanied by a statement of the circumstances that form the basis of the request.
- 4-20.12.3.2.3. Requests cannot be made retroactively, except in the case of absences that were assumed to be covered by Workers' Compensation but were subsequently denied.
- 4-20.12.3.3. The employee's department head must provide a written recommendation in favor of the request and its impact on departmental operations, and the request must be approved by the County Administrator.
- 4-20.12.4. The Extended Leave Pool will be set up effective July 1, 2009 with annual and holiday leave time that has been accrued by employees but which cannot be used, either because (i) an employee did not request or was not granted approval to use such leave within a required time period, or (ii) the employee has a balance of leave that exceeds the maximum accrual limit allowed by these personnel regulations. Thereafter, the Pool may be replenished as follows:
- 4-20.12.4.1. Through "repayments" made by employees who have borrowed from the pool, and
- 4-20.12.4.2. Through requests issued by the County Administrator for donations of leave time, in circumstances where a request has been made by an employee for time in excess of the balance of hours within the Pool.
- 4-20.12.5. Any leave granted to and used by an employee from the Extended Leave Pool shall be repaid in one of the following ways:

4-20.12.5.1. From the employee's earned annual and holiday leave accounts, at the following rates (based on years of service) until repaid in full:

- 0-5 years of service: 6 hours per pay period.
- 6-15 years of service: 12 hours per pay period
- Over 15 years of service: 15 hours per pay period

4-20.12.5.2. If the employee separates from County employment prior to full restitution of borrowed leave used, any accumulated annual or holiday leave balances will be charged, and if that does not fully reimburse the Leave Pool, then a cash payment equal to the balance remaining for repayment times the employee's current rate of pay will be deducted from the employee's final paycheck. The terms and conditions of repayment under this section shall be determined and communicated to the employee by the Director of Finance. In cases of extraordinary hardship demonstrated by an employee, the County Administrator may wave all or a part of the repayment.

4-20.12.6. Upon separation from employment, an employee may not withdraw any days he has contributed to the Pool.

4-20.12.7. Days drawn from the Pool for any one period of eligibility must be consecutive, except additional periods of disability resulting from recurrence or relapse of the original illness which will be covered fully on a continuing basis up to the annual maximum of 45 days. Once a member has used all 45 days of Extended Leave Pool time, he must return to work and meet the requirements of section 3-20.8.3.1, above, before becoming re-eligible to utilize the Pool..

4-20.12.8. No employee will be able to use leave from the Pool until the employee's comp time, holiday and annual leave balances have been depleted. Use of such leave by an employee will run concurrently with FMLA, where FMLA is applicable.

4-20.12.9. Use of leave from the Extended Leave Pool is granted at the discretion of an employee's department head and the County Administrator. Requests for use of such leave may be refused.

4-21. [reserved]